

PROPOSED REGULATORY CHANGES TO SECTIONS 163 AND 163.5, TITLE 14, CCR:
HERRING FISHERY

1) The first unnumbered paragraph of Section 163, Title 14, CCR, is amended to read:

163. Harvest of Herring.

Herring may be taken for commercial purposes only in those areas and by those methods specified in subsections (f)(1) and (f)(2) of this section under a revocable permit issued to an individual on a specified fishing vessel by the department. Transfer of permits from one boat to another may be authorized by the department upon written request by the permittee, accompanied by a copy of the current commercial boat registration of the new vessel. The fee for any approved transfer or substitution of a permit pursuant to paragraph one shall be \$50 for any request received by the department after the issuance date of November 15. The \$50 transfer fee must be received in the department's San Francisco Bay Area Marine Region office no later than five working days after written approval of any boat transfer or permittee substitution. Any permittee denied a transfer pursuant to paragraph one of this section may request a hearing before the commission to show cause why his request should not be denied. Permittees shall have their permit in their possession (including the attachment of any changes approved by the department after the permit is issued) and shall be aboard the vessel named on their permit at all times during herring fishing operations, except that the ~~Department~~department may authorize a permittee to have a crew member temporarily serve in his or her place aboard the vessel during a season. Requests for temporary permittee substitution must be submitted in writing by the permittee, accompanied by a copy of the temporary substitute's current California commercial fishing license. Two permits may be jointly fished on a single vessel upon approval of a written request by both permittees to the department. A permittee may simultaneously fish his or her own permit and a permit temporarily transferred to him or her on a single vessel within the same fishing group. A permittee serving as a temporary substitute on a permit while simultaneously fishing his or her own permit on a single vessel in the same fishing group shall incur the same penalties on his/her permit for all violations as those incurred against the permit for which he/she is serving as temporary substitute as prescribed in these regulations and in Section 163.5, Title 14, CCR. A person may not serve as a temporary substitute on more than one permit simultaneously on a single vessel in the same fishing group. Any request received by the department from November 1 to November 15 to transfer boats or substitute a permit or to simultaneously fish two permits on a single vessel shall be processed for approval by the department after the issuance date of November 15.

2) Subsection (a)(4) of Section 163, Title 14, CCR, is amended to read:

(4) Qualify for ~~ana~~ "DH" gill net permit as specified in subsection (c)(1)(C).

3) Subsection (b)(2) of Section 163, Title 14, CCR, is amended to read:

(2) Permittees will be issued permits for the same area and gear type they held during the previous season. In San Francisco Bay, round haul permittees who transferred gear type to gill net were designated as CH-(600-642)-SF permittees. For every conversion of gear type to gill net by a round haul permittee, the amount of herring allocated to each round haul permittee was transferred from the round haul quota to the gill net quota. For each round haul permit converted prior to October 6, 1995, fishing with gill net gear is authorized in two of the following fishing periods: odd-numbered permits, even-numbered permits, or December herring ("DH") permits. The permit holder of a converted round haul ("CH") permit is permanently assigned to the two fishing groups ("DH", odd-, or even-numbered permit) he or she designated. For every conversion of gear type to gill net by a round haul permittee after October 6, 1995 but before October 2, 1998, the permit is permanently in the two fishing groups ("DH", odd-, or even-numbered permit) assigned by the department. All remaining round haul permits as of October 3, 1998 were converted to gill net permits and assigned to a single gill net group. Upon transfer, the department assigned each converted "CH" permit to a single gill net group ("DH", odd-numbered, or even-numbered permit) as designated by the permit holder. A round haul herring permit, held in partnership prior to November 3, 1994 and subsequently converted to a "CH" permit prior to October 2, 1998, ~~was~~ is not subject to assignment to a single gill net group upon transfer to one of the partners.

4) Subsection (e)(5) of Section 163, Title 14, CCR, is amended to read:

(5) All herring landed in excess of any established permit quota shall be forfeited to the department by the signing of an ~~official release of property form~~ Release of Property form (FG-MR-674 (Rev. 5/02)), which is incorporated by reference herein. Such fish shall be sold or disposed of in a manner determined by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund.

5) Subsection (f)(1) of Section 163, Title 14, CCR, is amended to read:

(1) For purposes of this section regarding harvest of herring: San Francisco Bay is defined as the waters of Fish and Game districts 12 and 13 and that portion of district 11 lying south of a direct line extending westerly from Peninsula Point, the most southerly extremity of Belvedere Island (37 degrees 51 minutes 43 seconds N, 122 degrees 27 minutes 28 seconds W), to the easternmost point of the Sausalito ferry dock (37 degrees 51 minutes 30 seconds N, 122 degrees 28 minutes 40 seconds W); Tomales Bay is defined as the waters of district 10 lying south of a line drawn west, 252 degrees magnetic, from the western tip of Tom's Point (38 degrees 12 minutes 53 seconds N, 122 degrees 57 minutes 11 seconds W) to the opposite shore (38 degrees 12 minutes 44 seconds N, 122 degrees 57 minutes 42 seconds W); ocean waters are limited to the waters of districts 6 (excluding the Crescent City area), 7, 10 (excluding Tomales Bay), 16 and 17 (except as specified in subsection (h)(6) of these regulations); Humboldt

Bay is defined as the waters of districts 8 and 9; Crescent City area is defined as Crescent City Harbor and that area of the waters of district 6 less than 20 fathoms in depth between two nautical measure lines drawn due east and west true from Point Saint (41 degrees, 39⁴⁷ minutes, 30⁰⁷ seconds N, 124 degrees, 15 minutes, 16 seconds W) and Sister Rocks (41 degrees, 46³⁹ minutes, 59³¹ seconds N, 124 degrees 08 minutes 43 seconds W).

6) Subsection (f)(2)(B) of Section 163, Title 14, CCR, is amended to read:

(B) In Tomales Bay, for the ~~2001-02~~2002-03 season only, the length of the meshes of any gill net used or possessed in the roe fishery shall not be less than 2 inches or greater than 2 1/2 inches, except that four permittees (designated by the department in writing) participating in department-sponsored research on mesh size may use gill nets approved by the department with mesh less than the size designated herein. The use of mesh size of no less than 2 inches or greater than 2 1/2 inches is designated for evaluation purposes by the department and shall revert to a mesh size of no less than 2 1/8 inches or greater than 2 1/2 inches following the ~~2001-02~~2002-03 season, unless otherwise designated herein. In Humboldt Bay and Crescent City Harbor the length of the meshes of any gill net used or possessed in the roe fishery shall not be less than 2- 1/4 inches or greater than 2- 1/2 inches. In San Francisco Bay the length of the meshes of any gill net used or possessed in the roe fishery shall not be less than 2- 1/8 or greater than 2- 1/2 inches, except that ~~three~~six permittees (designated by the department in writing) participating in department-sponsored research on mesh size may use gill nets approved by the department with mesh less than 2 1/8 inches. The meshes of any gill net used or possessed by fresh fish permittees shall not be greater than 2 inches. Length of the mesh shall be the average length of any series of 10 consecutive meshes measured from the inside of the first knot and including the last knot when wet after use; the 10 meshes, when being measured, shall be an integral part of the net as hung and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while 10 meshes are suspended vertically under one-pound weight, from a single stainless steel peg or nail of no more than 5/32 inch in diameter. In Humboldt Bay and Crescent City Harbor, the length of any series of 10 consecutive meshes as determined by the above specification shall not be less than 22 1/2 inches or greater than 25 inches. In Tomales Bay, the length of any series of 10 consecutive meshes as determined by the above specifications shall not be less than 20 inches or greater than 25 inches. In San Francisco Bay, the length of any series of 10 consecutive meshes as determined by the above specification shall not be less than 21 1/4 inches or greater than 25 inches.

7) Subsection (f)(2)(D) of Section 163, Title 14, CCR, is amended to read:

(D) No nets shall be set or operated in Belvedere Cove north of a line drawn from the tip of Peninsula Point (37 degrees 51 minutes 43 seconds N, 122 degrees 27 minutes 28 seconds W) to the tip of Elephant Rock (southwest of Pt. Tiburon at 37 degrees 52 minutes 19 N, 122 seconds 27 minutes 03 seconds).

Also, no gill nets shall be set or operated from November 15 through February 15 inside the perimeter of the area bounded as follows: beginning at the middle anchorage of the western section of the Oakland Bay Bridge (Tower C at 37 degrees, 47 minutes, 54 seconds N, 122 degrees, 22 minutes, ~~43~~40 seconds W) and then in a direct line southeasterly to the Lash Terminal buoy #5 (G"5" buoy, flashing green 4s at 37 degrees, 44 minutes, ~~24~~23 seconds N, 122 degrees, 21 minutes, 36 seconds W), and then in a direct line southeasterly to the easternmost point at Hunter's Point (Point Avisadero at 37 degrees, 43 minutes, 44 seconds N, 122 degrees, 21 minutes, 26 seconds W) and then in a direct line northeasterly to the Anchorage #9 buoy "A" (Y"A" buoy, ~~yellow in color~~, flashing yellow 4s at 37 degrees, 44 minutes, ~~48~~46 seconds N, 122 degrees, 19 minutes, ~~24~~25 seconds W) and then in a direct line northwesterly to the Alameda N.A.S. entrance buoy #1 (G"1" buoy, ~~green in color~~, flashing green 4s at the entrance to Alameda Carrier Channel, 37 degrees, 46 minutes, ~~36~~38 seconds N, 122 degrees, 20 minutes, ~~24~~27 seconds W) and then in a direct line northwesterly to the Oakland Harbor Bar Channel buoy #1 (G"1" buoy, ~~green in color~~, flashing green 2.5s at 37 degrees, 48 minutes, ~~42~~15 seconds N, 122 degrees, 21 minutes, ~~24~~23 seconds W) and then in a direct line southwesterly to the point of beginning- (Tower C of the Oakland Bay Bridge, at 37 degrees, 47 minutes, 54 seconds N, 122 degrees, 22 minutes, 40 seconds W).

8) Subsection (g)(3)(A) of Section 163, Title 14, CCR, is amended to read:

(A) In Tomales Bay waters a fishing quota, not to exceed 300 tons, shall be permitted for the ~~2001-02~~2002-03 season. However, if spawning escapement, as determined by the department, reaches or exceeds 3,000 tons prior to February 15, the quota shall be increased as follows: 1) if the spawning escapement is more than 3,000 tons, the total take of herring shall not exceed 400 tons for the season; 2) if spawning escapement is more than 4,000 tons, the total take of herring shall not exceed 500 tons for the season.

9) Subsection (g)(4) of Section 163, Title 14, CCR, is amended to read:

4) San Francisco Bay: The total take of herring in San Francisco Bay for commercial purposes shall not exceed ~~4,476~~3,540 tons for the ~~2001-02~~2002-03 season. Tonnage shall be allocated on the following basis:

(A) Gill net permittees (including "CH" permittees): ~~4,456~~3,520 tons. Tonnage shall be allocated to each fishing group ("DH", odd, and even) in proportion to the number of permits that are assigned to each fishing group minus the number of permits in each platoon that are suspended for the entire season. ~~No gill net permittee (designated by the department in writing) participating in research sponsored by the department shall take more than 9.3 tons of herring for a single gillnet permit, or 18.6 tons of herring for a CH permit, per season. Each gill net permittee (designated by the department in writing) participating in research sponsored by the department shall be assigned an individual quota equal to 0.5 percent of the season gill net quota per assigned platoon, unless provided for pursuant to subsection (g)(4)(B) of these regulations.~~

(B) The total take of herring for the fresh fish market shall not exceed 20 tons

per season, except that during the ~~2001-02~~2002-03 season only, 10 tons total may be transferred, in proportion determined by the department, to gillnet permittee(s) participating in research sponsored by the department pursuant to subsection (g)(4)(A) of these regulations.

10) Subsection (h)(3) of Section 163, Title 14, CCR, is amended to read:

(3) San Francisco Bay: The season shall be from 5:00 p.m. on December 21 until noon on December ~~21~~, ~~2001~~20, 2002, and from 5:00 p.m. on January 25 until noon on March ~~22~~, ~~2002~~14, 2003.

(A) In San Francisco Bay, gill net permittees with even permit numbers and "CH" permittees assigned to the "even" fishing group shall be permitted to fish only on the following dates: January ~~6-11~~5-10, January ~~20-25~~19-24, February ~~3-8~~2-7, February ~~17-22~~16-21, March ~~3-8~~2-7, ~~March 17-22~~.

(B) In San Francisco Bay, gill net permittees with odd permit numbers and "CH" permittees assigned to the "odd" fishing group shall be permitted to fish only on the following dates: January ~~2-4~~12-17, January ~~13-18~~26-31, ~~January 27-February 1~~, February ~~10-15~~9-14, February ~~24-March 1~~23-28, March ~~10-15~~9-14.

(C) In San Francisco Bay, gill net permittees with "DH" permit numbers and "CH" permittees assigned to the "DH" fishing group shall be permitted to fish only on the following dates: December ~~2-7~~1-6, December ~~9-14~~8-13, December ~~16-21~~15-20. In the event permittees described under subsections (h)(3)(A) and (h)(3)(B) both reach their quotas pursuant to subsection (g)(4)(B), "DH" permittees, on notification by the department, may resume fishing operations until such group has reached the successive established termination date or quota.

(D) No more than ~~three~~six gill net permittees (designated in writing by the department) participating in research sponsored by the department shall be permitted to fish, under the direction of the department, from 5:00 p.m. on December 21 until noon on December ~~24~~20, and from 5:00 p.m. on January 25 until noon on March ~~22~~14.

11) Subsection (h)(4) of Section 163, Title 14, CCR, is amended to read:

(4) In Tomales Bay, the season shall be from 5:00 p.m. on December ~~26~~29 until noon on December ~~28~~31, and from ~~noon~~5:00 p.m. on January 25 until noon on March 8.

NOTE

Authority cited: Sections 1050, 5510, 8550 and 8553, Fish and Game Code.

References: Sections 8043, 8550, 8552.6, 8553, 8554, 8556, 8557 and 8559, Fish and Game Code.

1) Subsection (c)(1)(D)(2.) of Section 163.5, Title 14, CCR, is amended to read:

2. Five points for one year of service as a paid crewmember in the herring fishery, three points for a second year of service as a paid crewmember, and two

points for a third year as a paid crewmember, beginning with the 1978-79 herring fishing season, not to exceed a maximum of 10 points.

2) Subsection (f)(1)(B)(7.) of Section 163.5, Title 14, CCR, is amended to read:

7. Failure of permittee or his or her temporary substitute, authorized by the department, to be aboard the vessel during herring fishing operations (Sec. 163, para 1) 10 points

NOTE

Authority cited: Sections 1050, 5510, 8550 and 8553, Fish and Game Code.

References: Sections 8043, 8550, 8552.6, 8553, 8554, 8556, 8557 and 8559, Fish and Game Code